

HOUSE BILL 1415
By Buck

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 26 and Title 40, Chapter 35, relative to bail following conviction and pending appeal.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-35-116, is amended by deleting the section in its entirety and substituting instead the following:

Section 40-35-116.

(a) If a defendant is convicted of first degree murder and is sentenced to life without parole or the death penalty is imposed, the judge shall revoke bail immediately, notwithstanding sentencing hearings, motions for a new trial and related post-guilt determination hearings.

(b) If a defendant is convicted of first degree murder and is sentenced to life imprisonment, any Class A felony, aggravated robbery, aggravated sexual battery, aggravated kidnapping or a violation of Tennessee Code Annotated, Section 39-17-417(b) or (i), the judge shall revoke bail immediately, notwithstanding sentencing hearings, motions for a new trial and related post-guilt determination hearings unless the judge

makes the required findings set forth in Tennessee Code Annotated, Section 40-26-102(f).

(c) If a defendant is convicted on a felony offense not specified in subsection (a) or (b), the judge may revoke bail immediately, notwithstanding sentencing hearing, motion for a new trial and related post-guilt determination hearings subject to the provisions of Tennessee Code Annotated, Section 40-26-102.

(d) If the court revokes the defendant's bail, the defendant shall be housed in a local jail pending the sentencing determination. Following sentencing, the defendant shall be transferred to the custody of the authority to which the defendant was sentenced.

(e) If a defendant is convicted of first degree murder, the judge may house the defendant in a local jail or may transfer custody to the department of correction pending further proceedings in the trial court.

SECTION 2. Tennessee Code Annotated, Section 40-26-102, is amended by deleting subsection (f) in its entirety and substituting instead the following new subsections:

(f) Except as provided in subsection (g) of this section, if a defendant is convicted of first degree murder, any Class A felony, aggravated robbery, aggravated sexual battery, aggravated kidnapping or a violation of Tennessee Code Annotated, Section 39-17-417(b) or (i), the trial court shall revoke bail immediately notwithstanding sentencing hearings, motions for a new trial and related post-guilt determination hearings unless the trial judge finds that:

(1) The defendant does not pose a significant risk of flight;

(2) Apart from the facts constituting the offense, the defendant does not pose a significant danger to the community; and

(3) There are substantial questions of law or fact likely to result in:

(A) Reversal;

(B) An order for a new trial; or

(C) A sentence reduced to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.

(g) If a defendant is convicted of first degree murder and is sentenced to life without parole or the death penalty is imposed, the trial court shall revoke bail immediately notwithstanding sentencing hearings, motions for a new trial and related post-guilt determination hearings.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.